

EX PARTE OR LATE FILED

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July 22, 2003

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JUL 22 2003

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W., TW-A325
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

NOTICE OF EX PARTE
COMMUNICATION

**Re: Implementation of the Pay Telephone Reclassification and Compensation
 Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128**

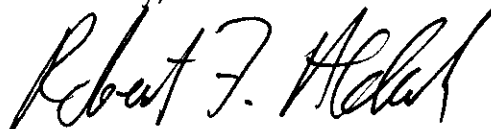
Dear Ms. Dortch:

On July 22, 2003, Albert H. Kramer, Robert F. Aldrich, and Gregory Kwan, attorneys for the American Public Communications Council ("APCC"), had a meeting with Gregory Cooke, Deputy Chief of the Competition Policy Division, Wireline Competition Bureau, Jack Yachbes, and Henry Thaggert of the Division staff.

We discussed APCC's views of record on who should be responsible for paying compensation for calls routed to switch-based resellers ("SBRs").

The matters discussed are summarized in the enclosed material which was provided to the staff at the meeting.

Sincerely,



Robert F. Aldrich

Enclosures

cc: Gregory Cooke
 Jack Yachbes
 Henry Thaggert III

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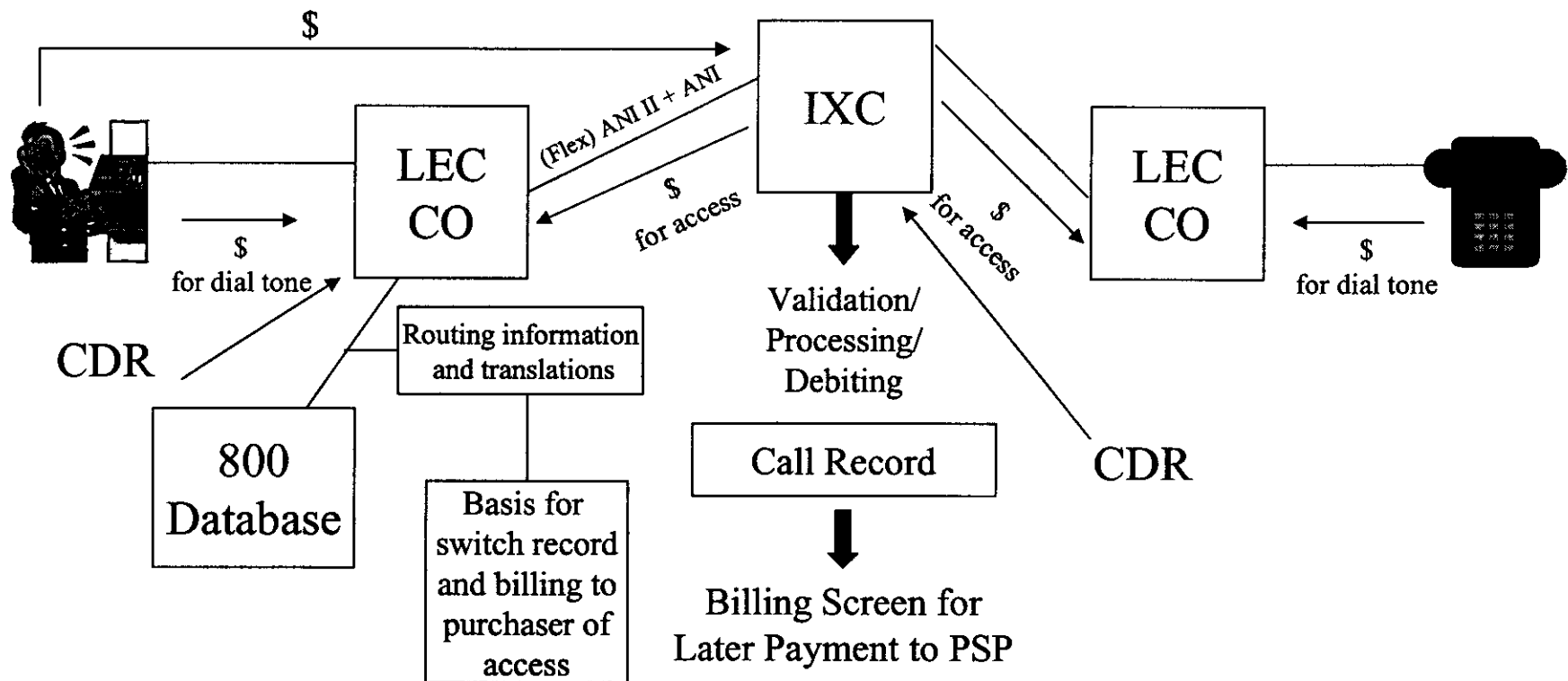
FCC SHOULD RETAIN FIXC-PAYS RULE

- ◆ Issue is how to ensure that PSPs are fairly compensated “for each and every completed . . . call.”
 - Statute indicates no preference as to which carrier should compensate PSP – “primary economic beneficiary” is, at best, one factor to be considered.
 - SBR ultimately pays the compensation in any event, either directly or by paying surcharge to first facilities-based IXC (“FIXC”).
 - *IPTA* case does not apply because no IXC is being exempted from direct or indirect participation in the compensation system.
- ◆ Virtually all parties agree that SBRs are the weak link in the system.
 - Major FIXCs concede there was a shortfall under SBR-pays rule.
 - Most agree that collections have improved under FIXC-pays rule.
- ◆ Only real issues are who is best situated to be held responsible for paying compensation on SBR calls and who is best situated to ensure compensation recovery from the SBRs.
 - Issue is substantive, not procedural
- ◆ FIXCs are better situated than SBRs to be responsible for compensating PSPs, and are better situated than PSPs to recover compensation from resellers.
 - FIXCs do receive “true” answer supervision on some (subscriber 800) calls handled by SBRs.
 - Unlike PSPs, FIXCs and SBRs have a market mechanism for tracking calls and recovering their costs.
 - Commission may clarify that FIXCs can impose reasonable completed call tracking requirements on SBRs.
- ◆ To the extent relevant, efficiency considerations favor FIXC-pays rule.
 - Number of transactions is reduced by several orders of magnitude.

- FIXCs have more efficient market-based collection mechanisms.
 - FIXC-pays rule moves PSPs closer to fair compensation “for each and every call.”
 - Up front implementation costs of FIXC-pays already have been paid.
- ◆ “Overcompensation” concerns under FIXC-pays are a red herring.
- No evidence of net overcompensation of PSPs – in fact, PSPs are undercompensated when FIXC pays based on answer supervision and callers make extensive use of SBR’s pound redial option.
 - In any event, it is SBR’s choice to avoid the costs of tracking completed calls and allow FIXC to compensate based on answer supervision.
 - Statute reflects Congressional judgment that the most important objective is to ensure that *PSPs* are fairly compensated for every completed call. If meeting this objective involves some “overcompensation” by including some uncompleted calls, that is an acceptable outcome.
- ◆ FIXC proposals are inadequate.
- Fundamental flaw in MCI proposal: Who will certify for SBR, and who will bear the loss if the certification is incorrect?
 - Qwest proposal for surcharge certifications is only a useful supplement.
- ◆ Reporting requirements should be strengthened.
- FIXCs generally agree that it would be reasonable to provide additional information to PSPs regarding calls routed to SBRs.
 - Reporting requirements should be strengthened under either a FIXC-pays or a SBR-pays rule.

1-800 (888, etc.)* Calling Card or Prepaid Card to Facilities Based IXC

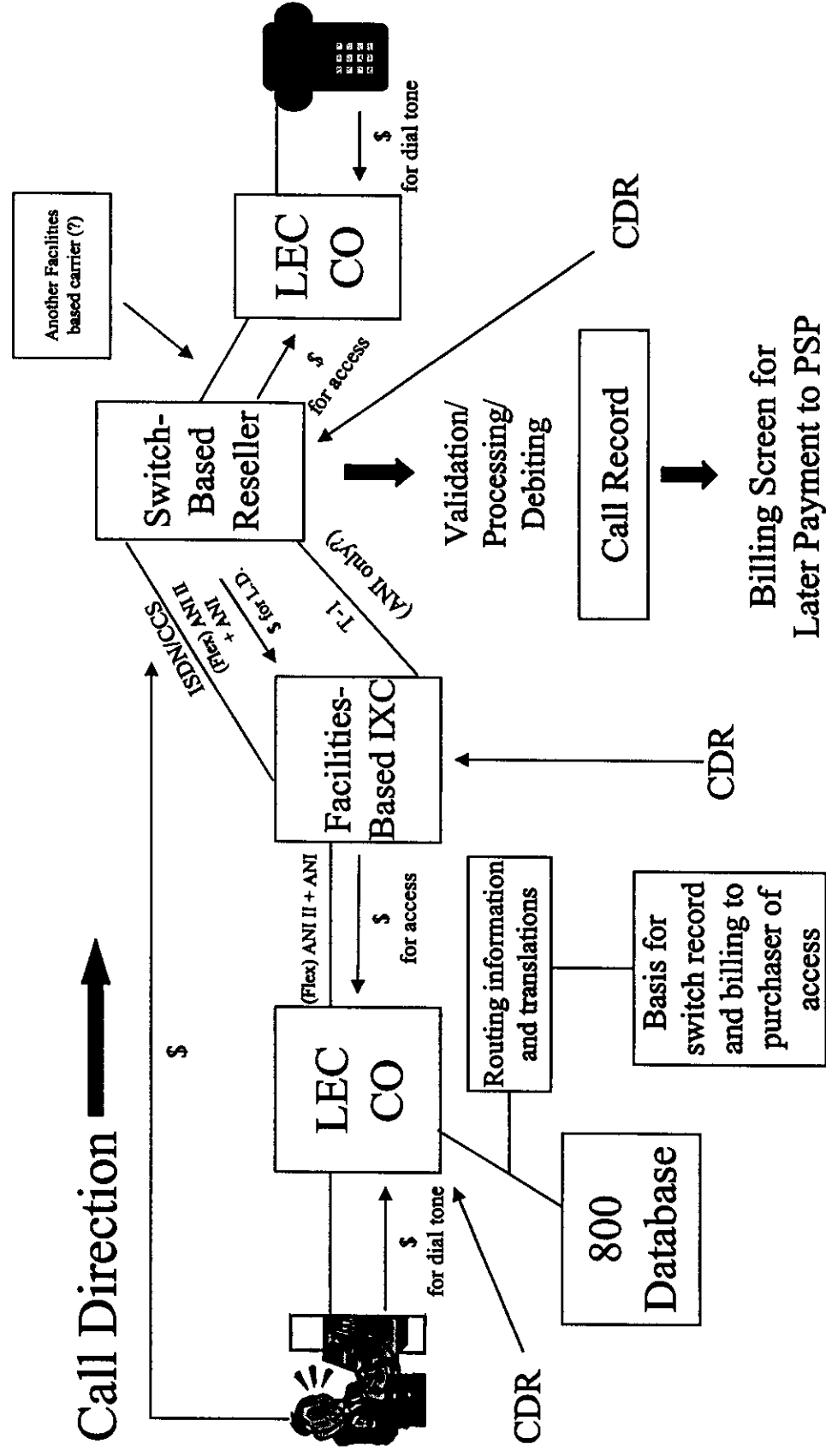
Call Direction 



PSP gets no record of call by call compensation
4-6 month payment delay

* Also applies to 101XXXX access but would have FGD routing instructions instead of 800 database routing instructions

**1-800 (888, etc.)* Calling Card or
Prepaid Card to Switch Based Reseller**



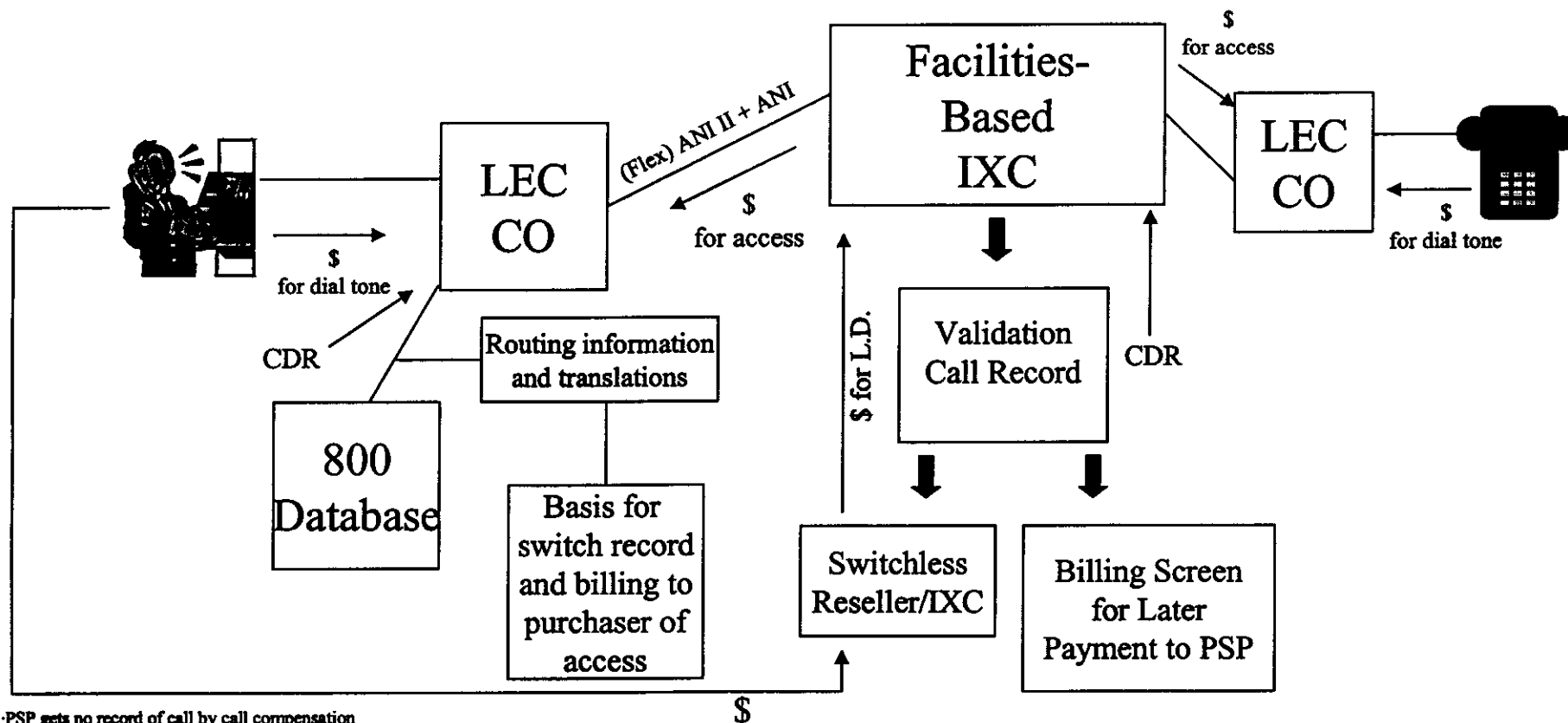
•PSP gets no record of call by call compensation

4-6 month payment delay

* Also applies to 101XXXX access but would have FGD routing instructions instead of 800 database routing instructions

1-800 (888, etc.)* Calling Card “Switchless” Reseller

Call Direction 

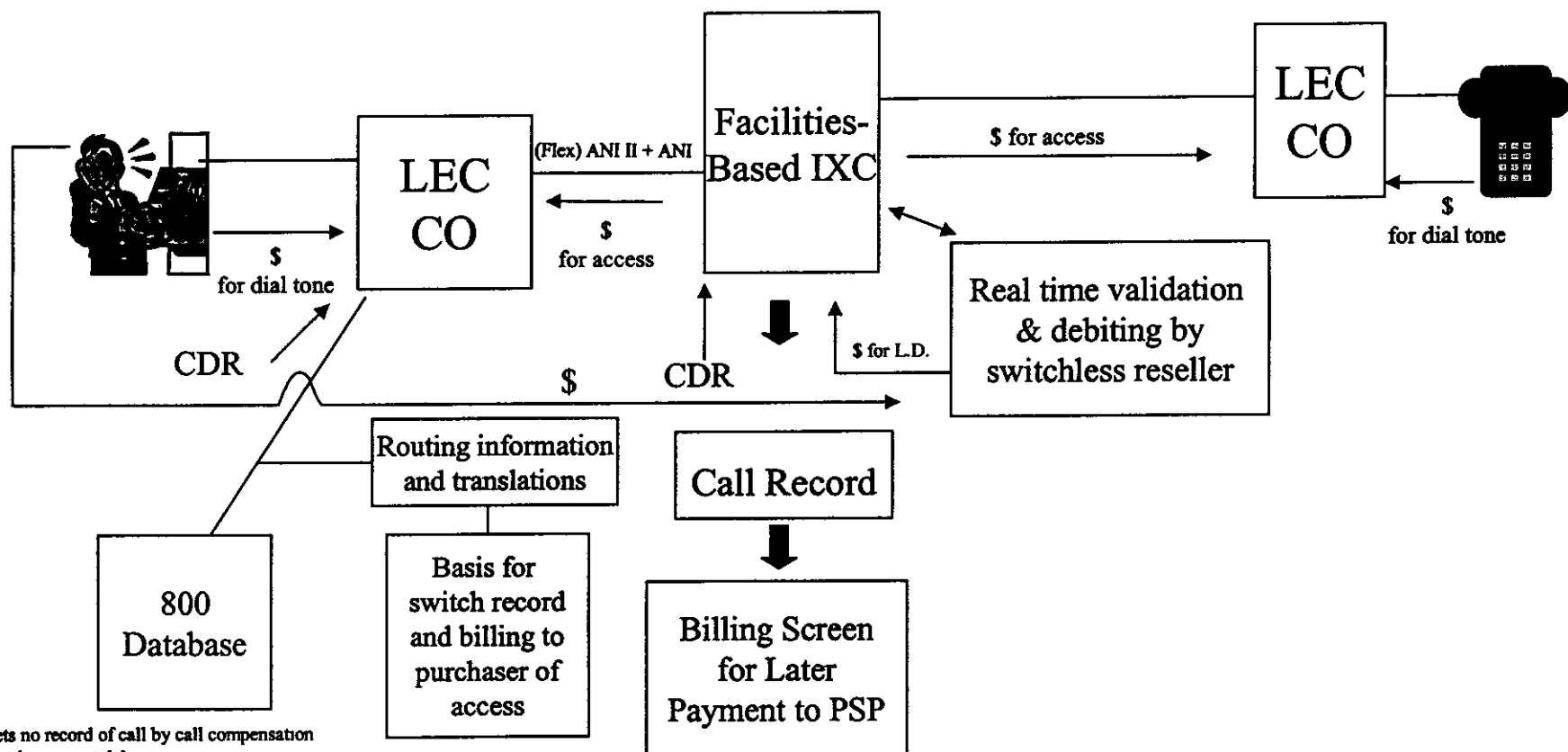


•PSP gets no record of call by call compensation
•4-6 month payment delay

* Also applies to 101XXXXX access but would have FGD routing instructions instead of 800 database routing instructions

1-800 (888, etc.)* Prepaid to “Switchless” Reseller

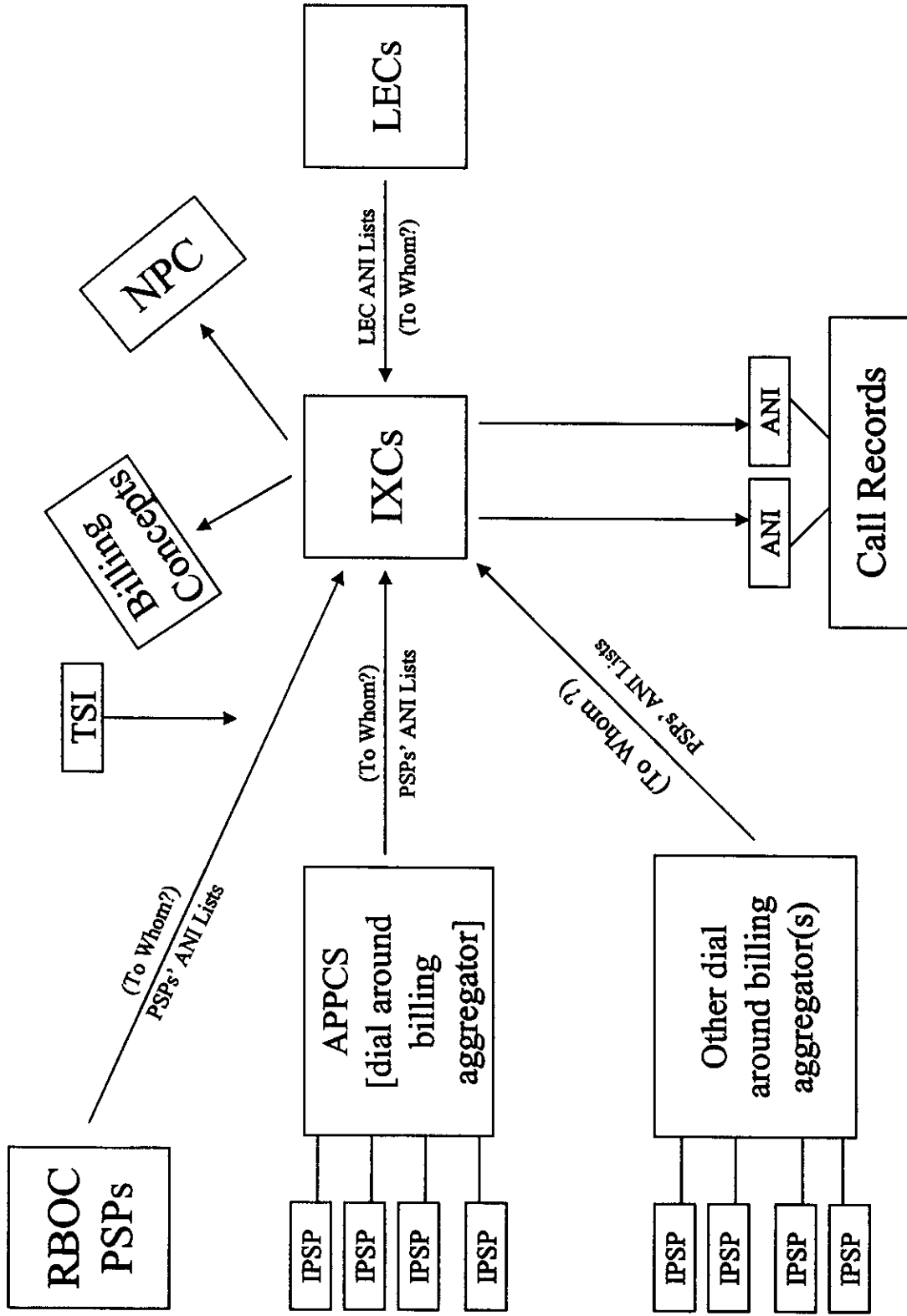
Call Direction 



·PSP gets no record of call by call compensation
·4-6 month payment delay

* Also applies to 101XXXX access but would have FGD routing instructions instead of 800 database routing instructions

Schematic ANI List Flow/Payment Process



ANI II Tracking
(27, 29, 70 (or 07) or all records)

PSP gets no record of call by call compensation
4-6 month payment delay